

Transitional Compensation

Military and civilian families alike can face the issues of spousal or dependent abuse. No one likes to be faced with that situation, talk about it, admit it, or deal with its consequences. Sometimes, the loss of financial and medical benefits to the military family is a disincentive for that family to report the abuse. The family members sometimes choose to suffer with the abuse; they avoid seeking medical treatment and never report the situation to avoid financial “penalty” associated with the service member’s potential discipline or discharge. Fortunately, Congress has provided some relief to military families that are confronted with this difficult and often debilitating circumstance.

Congress established the Transitional Compensation (TC) program for abused dependents of military personnel in order to counter economic barriers and increase the likelihood that family members will report the abuse. The legislation authorized temporary payments, at the rate specified for Dependency and Indemnity Compensation (DIC), for families in which the service member has been (1) discharged administratively or by court-martial for a dependent-abuse offense or (2) been sentenced to a forfeiture of all pay and allowances by a court-martial for a dependent-abuse offense after November 29, 1993. Dependent abuse offenses include, but are not limited to, sexual assault, rape, sodomy, assault, battery, murder and manslaughter.

Benefit entitlement begins on the date the administrative separation is initiated or the court-martial sentence is approved. Payments are for a minimum of 12 months or until the soldier’s ETS date, whichever is longer, but may not exceed a maximum of 36 months. The current monthly DIC rate is \$911 for a dependent spouse and \$229 for each dependent child in the care of the spouse. Other benefits include retention of the family member ID card, access to exchanges and commissaries, and medical, dental and TRICARE enrollment (for the purposes of abuse-related care only) for one year following the service member’s discharge.

If the service member was retirement-eligible, the medical benefits are the same as if the member had simply retired with full benefits. Further, the spouse can apply to a court of competent jurisdiction to obtain a court-order for her/his portion of any disposable retired pay that the service member lost by virtue of the member’s discharge as a result of dependent abuse.

These benefits can be forfeited. In the case where a dependent child is the victim, spousal benefits are forfeited if the spouse is found by a competent authority to have been an active participant in an abusive offense against the minor child. Also, if the spouse resides in the same household with the convicted service member, the spousal benefits cease and, by Department of Defense Instruction, cannot be resumed on subsequent physical separation. In addition, the spouse loses the spousal benefits (but not the dependent child’s benefit) upon remarriage, but they can be reinstated if the new spouse dies or there is a divorce or annulment of the second marriage. The dependent child’s benefit is forfeited if the service member’s spouse loses custody of the minor child or children. Both spousal and child benefits cease if the court-martial sentence is later remitted, set aside or mitigated to a lesser punishment that does not include the

dependent-abuse offense. In the case of an administrative separation, both spousal and child benefits cease if the convening authority disapproves the board's recommendation for separation on the dependent-abuse offense.

At Fort Monmouth, the Legal Services Branch of the Staff Judge Advocate Division and Army Community Service Family Advocacy Program staffs work together to provide information on eligibility and assistance to victims of dependent abuse. Applications and documentation required in accordance with AR 608-1 are submitted to the U.S. Army Community and Family Support Center to determine legal sufficiency of the application packet and approval of benefits. Due to program administrative revisions and automation upgrades in FY00, the time required for approval of benefits and issuance of a fund cite has been reduced to an average of five working days.

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